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10/629,775	07/30/2003	Soon Jo Lee	9988.038.00-US	7792
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MCKENNA LONG & ALDRIDGE LLP 1900 K STREET, NW WASHINGTON, DC 20006				GRAVINI, STEPHEN MICHAEL
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/629,775

MAILED

Filing Date: July 30, 2003

NOV 14 2006

Appellants (s): LEE ET AL.

Group 3700

Mark R. Kresloff
For Appellants

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 21, 2006 appealing from the Office action mailed March 21, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The Appellants' statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. Claim 2 as being anticipated by Holub and claims 2-20 and 22-26 provisional obviousness-type double patenting rejection over copending application 10/663,997 have been withdrawn because examiner erred in finally rejecting claim 2 in light of applicant's amendment and the presently claimed side plate is construed to be patentably distinct from the copending claimed control panel.

(7) Claims Appendix

A substantially correct copy of appealed claims 2-20 and 22-26 appears on page 12-16 of the Appendix to the Appellants' brief. A minor error omits the dependency of claim 3 onto claim 26. In response to an Office action filed February 13, 2006 claim 3 depends upon claim 26 and examiner will answer Appellants' brief as intended by Appellants' earlier Office action response.

(8) Evidence Relied Upon

3,402,281	VONDERHAAR	9-1968
1,550,700	HOLUB	8-1925
1,993,201	YANDELL	3-1935

(9) Grounds of Rejection

The following grounds of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 5-18 and 22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vonderhaar (US 3,402,281) in view of Holub (US 1,550,700). The claim recitation "fire plate" is broadly and reasonably construed, based on the specification, to convey a barrier to prevent fire passage. This interpretation is considered consistent with the specification since paragraphs [0007] and [0041] merely discuss a plate for preventing fire. Also since the body of the first independently claimed invention is not limited to a laundry dryer, the structure disclosed in Vonderhaar meets the claimed desired result of preventing fire. Vonderhaar is considered to disclose the claimed invention comprising:

a side plate 11 and a front plate 53 of a cabinet wherein the disclosed flat opposite end portions at column 4 line 1 is broadly and reasonably construed to be a front plate as claimed;

a door 19 or 20 in a front of the front plate;

a top cover 12 on top of the side plate and the front plate;

a control panel 15 on the top cover;

a fire plate 134 between the side plate and the top cover and between the front plate and the top cover, the fire plate having a first flange with a plurality of first fastening holes as shown in figure 5 and discussed at column 6 line 49 through column 7 line 6 because the claimed fire plate is broadly and reasonably construed from Appellants s' specification to have a first flange 84 with a plurality of first fasteners 144 or 145 since those openings to receive fastening means meets that claim limitation; and

a cabinet holder 136 joining the fire plate to the side plate, the cabinet holder including a plurality of fastening pieces on an underside of the cabinet holder wherein the plurality of first fastening holes receive the plurality of fastening pieces as discussed in column 6 line 58; or alternatively:

a top cover 12 mounted on a side plate of a cabinet;

a fire plate 77 disposed between the side plate and the top cover; and

a cabinet holder 82 configured to fasten the fire plate to the side plate wherein the cabinet holder includes a plurality of fastening pieces configured for insertion into the fire plate and the side plate as disclosed at column 5 lines 4-22 because the disclosed studs or pins are construed to be fastening pieces. Vonderhaar is also

considered to disclose the claimed a first flange at an edge of the fire plate and the side plate includes a second flange at a top part having a plurality of second fastening holes in communication with the first fastening holes, wherein the cabinet holder further includes a plurality of through holes in communication with the first, and second fastening holes and the fastening pieces is on an underside of an edge of one side of the through hole, wherein the second flange further includes a plurality of positioning projections projected upward for aligning the side plate during fastening of the side plate with the fire plate and the first flange further includes first inserting holes receiving the positioning projections therein and wherein the cabinet holder further includes a plurality of second inserting holes receiving the positioning projections projected through the first inserting holes as shown in figure 7. Vonderhaar is considered to disclose the claimed invention, as discussed above, except for the claimed laundry dryer application and plastic top cover. Holub, another appliance, is considered to disclose a laundry dryer application in the field of fire prevention at column 2 line 15 through column 5 line 27. It would have been obvious to one skilled in the art to combine the teachings of Vonderhaar with the laundry dryer application for the purpose of fire prevention in the field of laundry drying and for the purpose of containing fire within the domestic appliance. Furthermore, It would have been an obvious matter of design choice to provide a plastic cover, since applicant has not shown the structural differences including advantages of a plastic cover what is disclosed in the prior art.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vonderhaar in view of Holub in view of Yandell (US 1,993,201). Vonderhaar in view of

Holub is considered to disclose the claimed invention, as discussed above, except for the claimed plastic top cover. It would have been an obvious matter of design choice to provide a plastic cover, since applicant has not shown the structural differences including advantages of a plastic cover what is disclosed in the prior art. Furthermore, Vonderhaar in view of Holub is considered to disclose the claimed invention except for the claimed curved top surface and matching fire plate curvature. Yandell, another laundry dryer, is considered to disclose a curved top surface and matching fire plate curvature on the face of that reference. It would have been obvious to one skilled in the art to combine the teachings of Vonderhaar in view of Holub with the curved top surface and matching fire plate curvature, considered disclosed in Yandell, for the purpose of containing pressure from forces such as fire as discussed in the first three columns of that reference.

Claim 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vonderhaar in view of Holub in further view of Yandell. Vonderhaar in view of Holub is considered to disclose the claimed invention except for the claimed curved top surface and matching fire plate curvature. Yandell, another laundry dryer, is considered to disclose a curved top surface and matching fire plate curvature on the face of that reference. It would have been obvious to one skilled in the art to combine the teachings of Vonderhaar in view of Holub with the curved top surface and matching fire plate curvature, considered disclosed in Yandell, for the purpose of containing pressure from forces such as fire as discussed in the first three columns of that reference.

(10) Response to Argument

anticipation

The anticipatory rejection is withdrawn such that Appellants' arguments are moot.

obviousness

Appellants traverse claim 26 because of the claimed "cabinet holder configured to fasten the fire plate to the side plate wherein the cabinet holder includes a plurality of fastening pieces configured for insertion into the fire plate and the side plate." As rejected above, the claimed configuration is reasonably and broadly construed in light of Appellants' specification, such that column 5 lines 4 through 22, discloses studs or pins which meet the structural and function limitation of the claimed fastening pieces. This cited disclosure addresses Appellants' cited dimples arguments.

Appellants further assert that the claimed "plurality of fastening pieces on an underside of the cabinet holder wherein the plurality of first fastening holes receive the plurality of fastening pieces" is not interpreted to meet the disclosed fastening means, as rejected above. Throughout primary reference Vonderhaar, fastening pieces are disclosed such that the claimed configuration of fire plate and slide plate insertion are met by that reference. For example, at column 5 beginning at line 15, studs or pins **86** are adapted for fastening main section cabinet holder **82** with cook top cover **12** and fire plate **77** wherein the fire plate is between the side panel plate **11** and the top cover. These studs or pins meet the claimed fastening pieces configuration. The current Office practice of broadly and reasonably construing claims in light of the accompanying specification is consistent with interpreting the claims in light of the prior art.

With respect to secondary reference Holub not containing elements cited in the primary reference. Holub was not cited to teach elements found in the primary reference but rather to show that it would have been obvious to one skilled in the art to modify the teachings of the primary reference to use the secondary reference to address the problem of using a structural plate for a desired result.

Appellants traverse claim 15 because of the claimed "cabinet holder joining the fire plate to the side plate, the cabinet holder including a plurality of fastening pieces on an underside of the cabinet holder wherein the plurality of first fastening holes receive the plurality of fastening pieces." As rejected above, the claimed configuration is reasonably and broadly construed in light of Appellants' specification. As shown in figure 5 and discussed at column 6 line 49 through column 7 line 6, the claimed cabinet holder joint is broadly and reasonably construed from Appellants' specification to have a first flange **84** with a plurality of first fasteners **144** or **145** since those openings to receive fastening means meet that claim limitation. This disclosure addresses Appellants' cited dimples arguments.

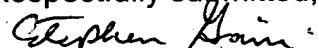
Appellants traverse the obviousness rejection of claims 2-4 and 19-20 in view of Yandell because the cabinet holder fastening pieces are not disclosed in that reference. Yandell was not cited to teach elements found in the primary reference or secondary reference but rather to show that it would have been obvious to one skilled in the art to modify the teachings of the primary reference in view of the secondary reference to use a tertiary reference to address the problem of using a structural plate for a desired result.

double patenting

The double patenting rejection is withdrawn such that Appellants' arguments are moot.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Stephen Gravini

Conferees:

Josiah Cocks  (initials)

Kenneth Rinehart  (initials)